

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 12/29/2020

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PHOENIX LIGHT SF LIMITED, et al.,	:	
	:	
Plaintiffs,	:	
	:	
	:	14-CV-10104 (VEC)
-against-	:	
	:	<u>ORDER</u>
THE BANK OF NEW YORK MELLON, as Trustee,	:	
	:	
Defendant.	:	
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VALERIE CAPRONI, United States District Judge:

WHEREAS on March 18, 2020, in a related case involving many of the same Plaintiffs and the same underlying agreements, Judge Vernon S. Broderick granted defendant U.S. Bank National Association's motion for summary judgment, finding that plaintiffs lacked both constitutional and prudential standing to bring a breach of contract action, *Phoenix Light SF Ltd. v. U.S. Bank, N.A.*, No. 14-CV-10116, 2020 WL 1285783, at *16 (S.D.N.Y. Mar. 18, 2020) ("*U.S. Bank*");

WHEREAS on April 16, 2020, plaintiffs in *U.S. Bank* filed a Notice of Appeal of the court's decision granting summary judgment to U.S. Bank, No. 14-CV-10116, Dkt. 425;

WHEREAS on April 23, 2020, the *U.S. Bank* plaintiffs' appeal was stayed pending plaintiffs' Rule 59(e) motion to alter the judgment before Judge Broderick, No. 14-CV-10116, Dkt. 428;

WHEREAS on August 12, 2020, Judge Broderick denied the *U.S. Bank* plaintiffs' motion seeking reconsideration of the court's decision in *U.S. Bank*, confirming the court's holding that plaintiffs lacked both constitutional and prudential standing, *see Phoenix Light SF Ltd. v. U.S. Bank, N.A.*, No. 14-CV-10116, 2020 WL 4699043 (S.D.N.Y. Aug. 12, 2020);

WHEREAS on August 14, 2020, the *U.S. Bank* plaintiffs filed an Amended Notice of Appeal, No. 14-CV-10116, Dkt. 438;

WHEREAS pending before this Court is Defendant Bank of New York Mellon's second motion for summary judgment, Dkt. 371;

WHEREAS on July 10, 2020, this Court granted Defendant's request to file a supplemental brief in further support of its motion for summary judgment addressing whether Plaintiffs lacked standing to bring this action and alternatively whether Plaintiffs are collaterally estopped from arguing that they have standing based on Judge Broderick's opinion in *U.S. Bank*, Dkt. 369;

WHEREAS the issue of whether Plaintiffs in the present action lacked standing to assert their claims at the outset of this case is now fully briefed;


WHEREAS the *U.S. Bank* appeal is currently pending before the Second Circuit, *see* No. 20-1312; and

WHEREAS based on its review of the decision in *U.S. Bank* and the *U.S. Bank* plaintiffs' appellate brief, the Court anticipates that the Second Circuit's decision in *U.S. Bank* will resolve whether Plaintiffs in this matter had Article III standing to assert their breach of contract claims;

IT IS HEREBY ORDERED that not later than **January 8, 2021**, Plaintiffs must show cause why this matter and the related matter at Docket No. 18-CV-1194 should not be stayed pending the Second Circuit's decision in *U.S. Bank*. Defendant must respond not later than **January 15, 2021**. Plaintiffs and Defendant each may submit a letter of up to eight (8) pages, double-spaced.

SO ORDERED.

Date: December 29, 2020
New York, New York



VALERIE CAPRONI
United States District Judge